

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Carol MacKenzie

(b) County of Residence of First Listed Plaintiff Montgomery
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Scott M. Pollins, Pollins Law, 303 W. Lancaster Ave.,
Ste. 1C, Wayne, PA 19087, 610-896-9909

DEFENDANTS

Audacy Pennsylvania, LLC d/b/a KYW Newsradio

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Keelin Austin

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability LABOR <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Equal Pay Act

Brief description of cause:
Discriminatory compensation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/14/23

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

05/2023

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

(to be used by counsel to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Montgomery County, PA
 Address of Defendant: 2400 Market St., 4th Fl. Philadelphia, PA 19103
 Place of Accident, Incident or Transaction: 2400 Market St., Philadelphia

RELATED CASE IF ANY:

Case Number: _____ Judge: _____ Date Terminated _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit Pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier Numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/14/23 [Signature] PA 76334
 Attorney-at-Law (Must sign above) Attorney I.D. # (if applicable)

Civil (Place a ☒ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts)
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Wage and Hour Class Action/Collective Action
- ☐ 6. Patent
- ☒ 7. Copyright/Trademark
- ☐ 8. Employment
- ☐ 9. Labor-Management Relations
- ☐ 10. Civil Rights
- ☐ 11. Habeas Corpus
- ☐ 12. Securities Cases
- ☐ 13. Social Security Review Cases
- ☐ 14. Qui Tam Cases
- ☐ 15. All Other Federal Question Cases. (Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. All Other Diversity Cases: (Please specify) _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration)

Scott M. Pollins, counsel of record or pro se plaintiff, do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2 § 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
- ☒ Relief other than monetary damages is sought.

DATE: 11/14/23 [Signature] PA 76334
 Attorney-at-Law (Sign here if applicable) Attorney ID # (if applicable)

NOTE: A trial de novo will be a jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CAROL MACKENZIE	:	
Plaintiff	:	CIVIL ACTION NO.
	:	
v.	:	
	:	
AUDACY PENNSYLVANIA, LLC	:	JURY TRIAL DEMANDED
d/b/a KYW NEWSRADIO	:	
Defendant	:	

COMPLAINT

I. INTRODUCTION

1. Plaintiff, Carol MacKenzie (MacKenzie), is suing her current employer, Audacy Pennsylvania, LLC d/b/a KYW Newsradio (KYW), for gender and age discrimination. MacKenzie brings this action under the Equal Pay Act of 1963 and the Lilly Ledbetter Fair Pay Act of 2009¹. For 20 years, KYW has systemically paid MacKenzie less than her male and/or younger coworkers. MacKenzie seeks back pay, liquidated damages, interest, costs, negative tax consequence damages, injunctive and declaratory relief, and attorneys' fees from KYW.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331.

3. Venue is proper in the Eastern District of Pa. because MacKenzie's claims arise in this judicial district.

III. PARTIES

4. MacKenzie is a female age 58 who resides in Montgomery County, PA.

¹ MacKenzie filed a complaint with the EEOC alleging gender and age discrimination. MacKenzie intends to amend this complaint at the appropriate time and add claims under Title VII, the ADEA, the Pa. Human Relations Act, and the Philadelphia Fair Practices Ordinance.

5. KYW is a Pennsylvania limited liability company, and at all time relevant to this Complaint had about 50 employees.

6. For the past 50 plus years, KYW has operated an AM news radio show at 1060 on the AM radio dial for the Philadelphia area market.

7. MacKenzie started working for KYW in 2003 as a morning drive news anchor.

IV. FACTUAL BACKGROUND

8. In the first several years of MacKenzie's employment, KYW paid her about \$20,000 - \$30,000/year less than her similarly situated male coworkers.

9. In about 2010, MacKenzie asked for a raise because she believed she was being paid less due to be being a female. Her boss at the time, Steve Butler, told her he could not pay her more than her male coworker Ed Abrams. Mr. Butler implied that KYW could not have a woman making more than a man.

10. By 2011, at least two male reporters, John McDevitt and Ian Bush, who was about 15 years younger than MacKenzie, were making about \$10,000/year more than her.

11. Also in 2011, KYW offered employment agreements to males Ian Bush and John McDevitt, but not to MacKenzie.

12. In the Fall of 2014, KYW promoted a male, Brandon Brooks, to be a morning anchor at a significantly higher yearly salary than MacKenzie was making as a morning anchor.

13. Over the next several years, KYW continued to pay MacKenzie significantly less than similarly situated male coworkers, including Ed Abrams, Ian Bush and Brandon Brooks.

14. In about 2018, MacKenzie found out that Mr. Brooks was making about \$30,000/year more than her.

15. In early 2019, MacKenzie complained to KYW management about the gender-based salary inequity. KYW responded by *lowering* Mr. Brooks' salary and modestly increasing her salary.

16. In about the Spring of 2020, KYW asked its top paid anchors and reporters to take a significant voluntary pay cut due to the impact on KYW of the COVID-19 pandemic. MacKenzie agreed to the voluntary pay cut, which was a reduction of \$20,000/year.

17. Throughout 2020 after the pandemic started in the United States, KYW had a hiring freeze. Notwithstanding the supposed hiring freeze, KYW hired a younger anchor, Denise Nakano, who is about 15 years younger than MacKenzie. In about November 2020, KYW promoted Ms. Nakano to be a mid-day anchor making about \$20,000/year more than MacKenzie.

18. Also in about November 2020, Jay Scott Smith was a male full-time anchor making at least about \$20,000/year more than MacKenzie. Upon information and belief, KYW continued to pay Mr. Scott Smith more than MacKenzie through March 2023 when KYW terminated him.

19. In about late 2021/early 2022, SAG-AFTRA, the union MacKenzie is a member of, conducted an investigation/audit of KYW's compensation practices. MacKenzie believes the union's investigation confirmed the systemic gender-based pay violations that KYW had engaged in for MacKenzie's entire employment tenure.

20. Also in late 2021, KYW offered MacKenzie a renewal of her employment agreement with yearly compensation offers of about \$137,000/year for 2022, \$140,000/year for 2023, and \$143,000/year for 2024. MacKenzie refused KYW's offer because she believed these yearly salary offers were far less than her male coworkers, including Mr. Scott Smith, and her younger coworker Ms. Nakano.

21. Several months later and in early 2022, KYW increased their offers to \$150,000/year for 2022, \$152,500/year for 2023, and \$155,000/year for 2024. MacKenzie subsequently signed an amendment to her employment agreement in February 2022 for these yearly salary figures.

22. All of the above-referenced male or younger comparators named above and MacKenzie engaged in jobs at KYW (anchors and reporters) that involved substantially equal skill, effort and responsibility.

23. All of the above-referenced male or younger comparators named above and MacKenzie worked under similar work conditions.

24. KYW's pay decisions regarding MacKenzie and her male or younger coworkers were made for discriminatory reasons (pay men more than women, pay men or younger women more than older women) and not because of any bona fide seniority or merit system.

25. KYW's pay decisions regarding MacKenzie and her male or younger coworkers were made for discriminatory reasons (pay men more than women, pay men or younger women more than older women) and not because of the quantity or quality of production.

26. KYW's pay decisions regarding MacKenzie and her male or younger coworkers were made for discriminatory reasons (pay men more than women, pay men or younger women more than older women) and not because of a factor other than gender or age (or a combination of both).

27. KYW has known or should have known for at least 10 years that its pay decisions regarding MacKenzie are discriminatory based on her gender or age or both; therefore, its discriminatory conduct is willful.

V. CLAIMS

**COUNT I – GENDER DISCRIMINATION
Equal Pay Act and Lilly Ledbetter Fair Pay Act**

28. Paragraphs 1 through 27 are incorporated by reference as if fully set forth herein.

29. The acts, failures to act, practices and policies of KYW set forth above constitute gender discrimination in violation of the Equal Pay Act and the Lilly Ledbetter Fair Pay Act.

30. As a result of KYW's illegal gender discrimination, MacKenzie has suffered significant harms and losses.

WHEREFORE, MacKenzie demands judgment in her favor and against KYW, for back pay and benefits, liquidated damages, interest, negative tax consequence damages, attorney's fees and costs, declaratory relief that the conduct engaged in by KYW violated MacKenzie's civil rights, equitable/injunctive relief directing KYW to cease any and all unlawful gender discrimination and requiring an external monitor be appointed to report to the Court quarterly for 36 months on KYW's compensation rates for anchors and reporters, and such other relief as the Court shall deem proper.

**COUNT II – AGE DISCRIMINATION
Lilly Ledbetter Fair Pay Act**

31. Paragraphs 1 through 27 are incorporated by reference as if fully set forth herein.

32. The acts, failures to act, practices and policies of KYW set forth above constitute age discrimination in violation of the Lilly Ledbetter Fair Pay Act.

33. As a result of KYW's illegal age discrimination, MacKenzie has suffered significant harms and losses.

WHEREFORE, MacKenzie demands judgment in her favor and against KYW, for back pay and benefits, liquidated damages, interest, negative tax consequence damages, attorney's fees and costs, declaratory relief that the conduct engaged in by KYW violated MacKenzie's civil rights, equitable/injunctive relief directing KYW to cease any and all unlawful age discrimination and requiring an external monitor be appointed to report to the Court quarterly for 36 months on KYW's compensation rates for anchors and reporters, and such other relief as the Court shall deem proper.

Respectfully submitted,

By: /s/ Scott M. Pollins
Scott M. Pollins/ Pa. Atty. Id. No. 76334
Pollins Law
303 W. Lancaster Ave., Ste. 1C
Wayne, PA 19087
(610) 896-9909 (phone)/(610) 896-9910 (fax)
scott@pollinslaw.com (email)

Date: 11/14/23

Attorney for Plaintiff, Carol McKenzie